

INTERIM FINAL REPORT  
MAY 13, 1988

THE OIL SPILL PREVENTION, CONTROL, AND COUNTERMEASURES PROGRAM  
TASK FORCE REPORT

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Recommendation. The Task Force recommends that a SPCC inspection manual, which recognizes Regional differences and yet provides general consistency, be developed for the entire program, and that a national training program for SPCC inspectors be initiated. Many local fire marshals inspect above-ground storage tank facilities from a safety point of view, especially with regard to fire and explosion prevention; therefore, the Task force recommends that a SPCC training program be established to utilize fire marshals for conducting SPCC inspections simultaneous to fire, explosion, and safety inspections.

7. Finding. Currently, an explicit and consistent policy for scheduling or tracking SPCC inspections does not exist. As a result, some environmentally significant facilities may not receive inspections.

Recommendation. The Task Force recommends the development of a SPCC inspection targeting policy that would prioritize the inspections based on the proximity of facilities to potable water supplies, sensitive ecosystems, the size or age of facilities, or other criteria.

8. Finding. The results of completed SPCC inspections have not been tracked in a consistent, computerized manner throughout the EPA Regions. As a result, program management and enforcement are seriously impeded.

Recommendation. All SPCC inspections should be recorded in a computerized database that is consistent in format throughout the EPA Regions. The database should include data regarding letters of deficiencies, violations, and related data pertinent to all facilities, such as discharge reporting and inspection history for each facility inspected over time.

9. Finding. Regional inconsistencies were noted in assessing penalties for violations during inspections. Current civil penalty levels for noncompliance may not be appropriate nor adequate.

Recommendation. The Task Force recommends that EPA develop a formal penalty policy, and that 40 CFR Part 114 (Civil Penalties for Violation of Oil Pollution Prevention Regulations) be examined for potential regulatory changes to implement this recommendation.

#### Changes to the Current SPCC Regulations

10. Finding. Compliance with many aspects of the SPCC regulations is currently performed on a discretionary basis. Many aspects of the current regulations are guidelines rather than mandatory requirements.



Recommendation. The Task Force recommends changes in the SPCC regulations, particularly to 40 CFR Part 112.7, that would specify mandatory compliance with many of the guidelines in the current regulations.

11. Finding. The Task Force found that SPCC Plans do not contain a facility-specific contingency plan with detailed countermeasures to be employed if a spill should extend beyond the facility boundary in an uncontrolled manner.

Recommendation. The Task Force recommends that the SPCC regulations be amended to require inclusion of specific contingency plans, which should be coordinated with Local Emergency Planning Committees to reflect the requirements of Title III of SARA, in every facility's SPCC Plan.

12. Finding. Specific guidelines for tank integrity standards, testing, and emergency response training are not provided in the SPCC regulations.

Recommendation. The Task Force recommends that specific changes be made to the SPCC regulations regarding the preparation and implementation of a SPCC Plan. These recommendations include: (1) requiring new tankage to meet certain industry codes, such as American Petroleum Institute 650 or National Fire Protection Association 30; (2) requiring integrity testing for new above-ground storage or old tanks with no secondary containment; for example, hydrostatic testing or 100 percent radiographic inspection of welds in lieu of hydrostatic testing, until new test protocols are developed for identifying tanks with unacceptable risks of fracture; (3) requiring facility owners and operators to inspect tanks and secondary containment periodically; and (4) ensuring that employees at selected facilities undergo emergency response training.

13. Finding. The current SPCC regulations do not differentiate requirements based on the size of a facility. The Task Force found that facility size may provide an indication of the relative magnitude of potential environmental impacts that could result from a release at a facility.

Recommendation. The Task Force recommends that the SPCC regulations be modified to reflect varying degrees of stringency based on facility size. In this way, large-capacity facilities would be subject to the most stringent requirements.

### 2.1.3 Recommendations Applicable to 40 CFR Part 112

Part 112 deals with prevention of oil spills and the preparation of control and countermeasure plans. These regulations establish procedures, methods, and equipment requirements to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines.

The Task Force recommends changes to 40 CFR Part 112 in three principal areas: (1) strengthening existing regulations so that SPCC Plans more directly and explicitly address prevention and control requirements, and amending the regulations so that specific contingency plans are required for all facilities; (2) adopting or citing other regulations or standards that are applicable to oil facilities; and (3) strengthening of the language currently found in Part 112 to require certain prevention practices. A discussion of these recommendations follows.

A SPCC Plan should primarily be designed to prevent the occurrence of spills and secondarily to provide an effective procedure to control oil spills on-site. The Task Force believes that every SPCC Plan, based on good engineering and environmental practices, should contain a contingency plan with detailed countermeasures to be employed if a spill should extend beyond the site in an uncontrolled manner. The Task Force recommends, therefore, that 40 CFR Part 112 be amended to require inclusion of specific contingency plans in every facility's SPCC Plan and detailed contingency planning criteria be incorporated in Part 112.



The Task Force has examined standards and regulations related to oil storage tanks and facilities (see Sections 2.3 and 2.4 of this report), and has concluded that the SPCC regulations may be strengthened by referencing or including certain portions of other regulations. A general examination and comparison of such regulations by the Task Force has identified several relevant provisions. For example, OSHA requires hydrostatic testing of above-ground storage tanks (29 CFR 1910.106), and DOT's Office of Pipeline Safety (OPS) mandates cathodic protection for certain facilities covered under its regulations (49 CFR 195.242). The Task Force recommends that a thorough study of other related regulations be undertaken, and that certain applicable portions of such regulations be considered for strengthening the SPCC regulations.

Finally, the Task Force recommends many specific changes to the language included in 40 CFR Part 112. An important change necessary to strengthen the language of Part 112 is to replace the word "should" in most cases with the word "shall" or "must." For example, 40 CFR 112.7 delineates "Guidelines for the Preparation and Implementation of a Spill Prevention Control and Countermeasure Plan" and includes paragraph (c) which states, in part, "...equipment to prevent discharged oil from reaching a navigable water course should be provided." A language change in paragraph (c) would facilitate the implementation of a critical element in spill prevention and countermeasures. The Task Force also determined that the stringency of application of the regulatory changes should be modified by the size of the facility. Examples of these changes are in Exhibit 2-1.

In addition, the Task Force recommends that a clarification of, and certain amendments to, relevant definitions in the existing regulations be considered. For example, the definition of "oil" found in Part 112 may be inconsistent with that found in Part 110, which defines oil of any kind and therefore requires

amendment. The lack of separate definitions for "storage tank" and "breakout tank" in the SPCC regulations has proved to be troublesome; breakout tanks are occasionally used for temporary storage. Closer scrutiny of the regulations will undoubtedly reveal additional inconsistencies, and will illustrate the need to coordinate and harmonize definitional terms with other regulations and programs.

Further revisions of the language in 40 CFR Part 112 should decrease inconsistencies in interpretation between EPA regions, and will decrease the burdens on SPCC inspectors and On-Scene Coordinators (OSCs) in explaining the requirements and implications of the regulations to the regulated community. Revisions will improve compliance with the regulations, reduce the number of reportable oil releases, and reduce the potential for releases to cause serious public health or environmental harm. Language in these regulations should request facility owners and operators to carefully consider pertinent physical surroundings (i.e., wetlands, drinking water supplies, tidal areas, etc.) in the preparation of a SPCC Plan.

The Task Force also recommends consideration of expanding Part 112 to include abandoned oil wells and abandoned or "mothballed" facilities. Chronic discharges or leaks from old stripper wells, such as those found in the Allegheny forest of Pennsylvania, are not currently addressed in the regulations, and could be covered by addition of a new section 112.8.

#### 2.1.4 Recommendations Applicable to 40 CFR Part 113

In 40 CFR Part 113, liability limits are established for small onshore oil storage facilities with fixed capacities of 1,000 barrels or less. Part 113 was promulgated, pursuant to section 311 (f)(2) of the CWA, on September 13, 1973 (38 FR 25440). Public Law 95-217, enacted on December 27, 1977, added a new subsection (q) to section 311 of the CWA. Under that



subsection, the President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f)(2) and (3) of section 311. The subsection prescribes that the liability limits so established are to be less than \$50,000,000 but not less than \$8,000,000. (All liability limits specified in Part 113 are less than \$8,000,000.) Because of the enactment of Public Law 95-217, Part 113 is no longer valid. The Task Force recommends that Part 113 be deleted. Should it be necessary to implement subsection (q), taking into account, among other appropriate considerations, current remediation costs, any necessary delegations of authority from the President should be sought.

#### 2.1.5 Recommendations Applicable to 40 CFR Part 114

In 40 CFR Part 114, civil penalties are established for violations of the oil spill regulations and a maximum fine of \$5,000 is prescribed for each day such a violation continues. The Task Force recommends a review and interpretation of this part, as well as an examination of the history of the application of this statutory limit to determine if such a civil penalty is appropriate or if, in light of the enforcement history, Part 114 might be modified to encourage compliance. The Task Force also recommends that a formal penalty policy be developed by EPA in order to reduce Regional inconsistencies in penalty assessment.